SUPPLEMENT A

Extracts From New York State Order for the New York-New Jersey Milk Marketing Area

Order No. 126

State of New York

DEPARTMENT

of

AGRICULTURE AND MARKETS

Division of Milk Control

Revised Official Order No. 126

Sec. 927.3 Marketing area. "New York-New Jersey milk marketing area" (hereinafter called the "marketing area") means all of the territory within the boundaries of the city of New York, and the counties and parts of counties set forth in paragraphs (a) and (b) of this section together with all piers, docks, and wharves connected therewith, and all craft moored thereat, and including territory within such boundaries which is occupied by Government (Municipal, State, Federal, or International) reservations, installations, institutions, or other establishments.

(a) The city of New York and counties of Nassau, Suffolk (except Fisher's Island), and Westchester in the State of New York (such territory being referred to hereinafter as the "New York metropolitan district").

(b) The following counties and parts of counties in the State of New York: Albany; Broome; Cayuga (except the townships of Sterling, Victory, Conquest, and Montezuma); Chemung; Chenango; Columbia; Cortland; Delaware; Dutchess; that part of Essex consisting of the townships of Schroon, Ticonderoga, Crown Point, and Moriah; Fulton (except the township of Stratford); Greene; Herkimer (except the townships of Webb, Ohio, and Salisbury); Madison; Montgomery; Oneida (except the townships of

Ava, Boonville, Forestport, and Florence); Onondaga; Orange; Oswego (except the townships of Redfield and Boylston); Otsego; Putnam; Rensselaer; Rockland; Saratoga (except the townships of Day, Edinburg, and Providence); Schenectady; Schoharie; Schuyler; that part of Steuben consisting of the townships of Addison, Corning, and Erwin; Sullivan; Tioga; Tompkins; Ulster; Warren (except the townships of Johnsburg, Thurman, and Stony Creek); Washington; and Yates (except the townships of Italy, Middlesex, and Potter); and in the State of New Jersey: Bergen; Essex; Hudson; Hunterdon; Middlesex; Monmouth; Morris; Ocean (except the boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, Surf City, Tuckerton, and the townships of Eagleswood, Lacey, Little Egg Harbor, Long Beach, Ocean, Stafford, and Union); Passaic; Somerset; Sussex; Union; and Warren.

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Sec. 927.5 Dairy farmer. "Dairy farmer" means any person who produces milk.

Sec. 927.6 Producer. "Producer" means any dairy farmer whose milk is delivered direct from farm to a pool plant: *Provided*, That a dairy farmer who, if not a producer pursuant to this order, would be defined as a producer under another order issued pursuant to the Act shall not be a producer under this order if the milk received from all such dairy farmers at the plant is assigned to Class III, or is subject to payments at the rates specified in Sec. 927.83 (b) (2), or is subject to payments at the rates specified in Sec. 327.83 (b)(1) and the milk is priced at the lowest class price under the other order.

Sec. 927.7 Handler. "Handler" means (a) any person who engages in the handling of milk or products therefrom, which milk was received at a pool plant, or at a plant approved by any health authority as a source of milk for the marketing area, (b) any person who engages in the handling of milk, concentrated fluid milk, cultured or flavored milk

drinks, cream, half and half, or skim milk, all or a portion of which is shipped to, or received in, the marketing area, or (c) any cooperative association of dairy farmers with respect to any milk which it causes to be delivered from dairy farmers to a pool plant of any other handler for the account of such association and for which such association receives payment.

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Sec. 927.29 Temporary pool plants. Except for plants which, pursuant to paragraph (a) of Sec. 927.27 or pursuant to the proviso of paragraph (c) or to paragraph (e) of this section, are not eligible for designation, any plant not designated pursuant to Sec. 927.25 or Sec. 927.28 shall automatically be designated a pool plant in accordance with provisions of paragraphs (a) through (d) of this section: *Provided*, That no plant shall be a pool plant pursuant to this section (1) in any month in which it is a pool plant pursuant to provisions of Federal Order No. 119, or (2) in any of the months of December through June if it was a pool plant pursuant to provisions of Federal Order No. 119 in each of the preceding months of July through November.

(a) For any of the months of January through March and July through December, any plant at which 25 percent or more of the receipts of milk from dairy farmers is classified in Class I-A on some basis other than the failure to account for such milk shall automatically be designated a pool plant for such month.

(b) For any of the months of April, May, or June, any plant at which during the preceding period of October, November, and December either (1) no milk was received from dairy farmers, or (2) 60 percent or more of the milk received from dairy farmers was classified in Class I-A on some basis other than the failure to account for such milk, shall automatically be designated a pool plant for any of such months of April, May, or June in which 10 percent or more of the milk received from dairy farmers is classified

in Class I-A on some basis other than the failure to account for such milk.

(c) Any plant which is a pool plant in any of the months of April, May, or June on the basis of paragraph (b) of this section shall be a pool plant in any of the months of July through March following in which 60 percent or more of the milk received at the plant from dairy farmers is classified in Class I-A and Class I-B: *Provided*, That upon written request presented to the market administrator by the handler, the plant shall not be a pool plant on any basis from the month following receipt of such request until the following July 1.

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraphs (a), (b), or (c) of this section from which Class I-A milk is distributed in the marketing area other than to another plant shall be a pool plant in any month if at least 55 percent of the milk received from dairy farmers at the plant during such month is classified in Class I-A and Class I-B: *Provided*, That such plant shall not be a pool plant if the handler operating the plant elects at the time of filing the report pursuant to Sec. 927.50 not to have the plant designated a pool plant, and to make payments into the producer settlement fund at the rate specified in Sec. 927.83 (b) for any nonpool milk or skim milk which, on the basis of products distributed in the marketing area to purchasers other than other plants is classified as Class I-A, Class II, or as skim milk subject to the fluid skim differential: *Provided further*, That such plant shall not be a pool plant, if in the absence of this provision, milk received from farmers at the plant would be classified and priced under another order issued pursuant to the Act, with a provision for market-wide equalization, and if the percentage of the milk received from dairy farmers at the plant which is classified as Class I-B and disposed of in the marketing area defined in such other order is greater than the percentage of such milk classified as Class I-A.

[NOTE: As in effect for the period prior to September 1, 1958 paragraph (d) reads as follows:]

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraphs (a), (b), or (c) of this section (except a plant which is not a pool plant pursuant to the proviso in paragraph (c)), but from which Class I-A milk is distributed in the marketing area other than to another plant shall be a pool plant in any month at the option of the handler, exercised at the time of filing the report pursuant to Sec. 927.50, if at least 55 percent of the milk received from dairy farmers at the plant during such month is classified in Class I-A and Class I-B: *Provided*, That a plant at which, except for this paragraph, milk received from farmers would be classified and priced under another order issued pursuant to the Act, shall not be a pool plant pursuant to this paragraph unless the percentage of the milk received from dairy farmers at the plant which is classified in Class I-A is greater than the percentage of such milk which is classified in Class I-B and disposed of in the marketing area defined in such other order.

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Sec. 927.83 Payments on milk received from dairy farmers at nonpool plants. Payments shall be made by handlers to producers through the producer settlement fund, for milk and milk products under conditions, in amounts, and by the handler pursuant to paragraphs (a) through (d) of this section: *Provided*, That for any month in which the volume of Class III milk used in the computation of the uniform price is less than 15 percent of the combined volume of the Class I-A and Class II milk used in such computation, the payments set forth in this section shall not be required.

(a) Payments shall be made for milk, concentrated fluid milk, fluid milk products, cultured or flavored milk drinks, cream, half and half, fluid cream products, and skim milk,

which milk or milk products meet each of the following conditions:

(1) It was derived from milk received at a nonpool plant from dairy farmers, from dairy farmers defined as producers pursuant to the provisions of Federal Order No. 119, or received from a handler designated as a producer-handler pursuant to Sec. 927.15.

(2) It was shipped to, received in, or distributed in the marketing area, or was received at a pool plant outside the marketing area.

(3) The milk or milk equivalent of the butterfat is classified as Class I-A or Class II, or the skim milk would be subject to the fluid skim differential if it were derived from pool milk.

(b) The amounts of payment for the products set forth in paragraph (a) of this section shall be as follows:

(1) If the milk or the milk equivalent of the butterfat, or the skim milk is classified and paid for under another order issued pursuant to the Act, the amount of payment on such products, except skim milk shall be any plus amount obtained by subtracting the value of the milk or the milk equivalent of the butterfat at the class price or prices under such order from the value computed in accordance with the classification and pricing set forth in this subpart: *Provided*, That the payment shall be at the rates set forth in subparagraph (2) of this paragraph if the other order permits the deduction of such payment from the amount otherwise due for such milk pursuant to such other order: *Provided further*, That no payment shall be applicable to milk distributed on routes in the marketing area defined in this order from a plant which is a pool plant under provisions of Federal Order No. 119. The amount of payments on skim milk shall be an amount computed pursuant to Sec. 927.44 adjusted for the location of the plant, except that no

payment shall be applicable to packaged skim milk classified and priced under provisions of Federal Order No. 119.

(2) If the milk or milk product is derived from milk received from dairy farmers at a nonpool plant in the 401-425 mile zone, or in some other zone nearer the marketing area, the handling of which is not regulated by an order issued pursuant to the Act or is regulated by another order as specified in the proviso of subparagraph (1) of this paragraph, the amount of payment, except as otherwise specified in subparagraph (4) of this paragraph, shall be the differences between its classified value at the Class I-A or the Class II price, depending upon its classification, and its value at the Class III price, such class prices to be adjusted for butterfat test and the location of the plant at which the nonpool milk was originally received from farmers: *Provided*, That for concentrated fluid milk, cream, half and half, fluid cream products, and cultured or flavored milk drinks containing less than 3.0 percent or more than 5.0 percent butterfat, the payment shall be computed on the milk equivalent thereof as so classified. The amount of the payment on skim milk (either as skim milk, half and half, or in cultured milk drinks) shall be the amount computed pursuant to Sec. 927.44 as similarly adjusted for location.

(3) If the milk or milk product is derived from milk received from dairy farmers at a nonpool plant farther from the marketing area than the 401-425 mile zone, the handling of which is not regulated by another order issued pursuant to the Act, or is regulated by another order as specified in the proviso of subparagraph (1) of this paragraph, the amount of payments shall be the difference between the value of its milk equivalent at the Class I-A or Class II price, depending upon its classification, and the value of such milk at the midwestern condensery price announced pursuant to Sec. 927.46 (b)(9), such class prices to be adjusted for the location of the plant at which the nonpool milk was originally received from dairy farmers: *Pro-*

vided, That for milk, fluid milk products, and cultured or flavored milk drinks containing 3.0 percent or more but not more than 5.0 percent of butterfat, the payment shall be the difference between the value of such milk or milk product at the Class I-A price for milk containing 3.5 percent butterfat, adjusted for location of the plant, and the condensery price. The amount of the payment on skim milk (either as skim milk, half and half, or in cultured milk drinks) shall be the amount computed pursuant to Sec. 927.44 similarly adjusted for location.

(4) For any month in which the volume of milk subject to the butter-cheese adjustment used in the computation of the uniform price is more than 15 percent of the combined volume of the Class I-A and Class II milk used in such computation, the payment required by subparagraph (2) of this paragraph shall be increased by the value of the milk or milk equivalent at the rate of the butter-cheese adjustment at the plant where the milk was received from dairy farmers.

(5) In computing the milk equivalent value of milk or milk products as specified in this paragraph, such value shall be computed on the basis of milk containing 3.5 percent of butterfat.

(c) Payment for any milk or milk product pursuant to this section shall be made, on behalf of the handler receiving the milk from dairy farmers, by the appropriate handler as set forth in subparagraphs (1) through (3) of this paragraph: *Provided*, That if the milk is received from a handler under another order issued pursuant to the act, which order provides that the payment to the producer settlement fund may be deducted from the handler's obligation under the other order, the payment shall be made by the handler subject to the other order regardless of the provisions of subparagraphs (1) through (3) of this paragraph:

(1) By the handler first receiving the milk or milk product at a pool plant outside the marketing area.

(2) By the handler operating the plant where the milk or milk product is first received in the marketing area if the milk or milk product is not received at a pool plant outside the marketing area.

(3) By the handler operating the plant from which the milk or milk product was moved into the marketing area if such milk or milk product is neither received at a pool plant outside the marketing area nor at a plant in the marketing area.

(d) The amount due pursuant to this section shall be entered on the handler's account as a debit immediately after the filing of the report pursuant to Sec. 927.50, or if the handler fails to file such report, such amount shall be entered on the handler's account in accordance with Sec. 927.80.

SUPPLEMENT B

Notices of the State of New York With Respect to Hearings For Extension of Its Order to Northern New Jersey and Upper New York State

STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
DIVISION OF MILK CONTROL

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO REVISED OFFICIAL ORDER NO. 126 REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA

The Commissioner of Agriculture and Markets of the State of New York promulgated, effective September 1, 1938, Official Order No. 126 regulating the handling of milk in the New York Metropolitan Milk Marketing Area. Such order was promulgated jointly and concurrently with the promulgation by the Secretary of Agriculture of the United States of the latter's Order No. 27 regulating the handling of milk for the aforesaid marketing area. Since their pro-

mulgation, such joint and concurrent orders have been jointly revised and amended from time to time by the aforesaid officials. The terms and conditions of the State and Federal orders referred to above have at all times been similar and such orders have been jointly administered.

The United States Department of Agriculture has given notice of a hearing at which consideration will be given to proposed amendments to the Order (No. 27) of the Secretary of Agriculture of the United States regulating the handling of milk in the New York Metropolitan Milk Marketing Area, and on a proposed order regulating the handling of milk in the Northern New Jersey milk marketing area. The undersigned Commissioner of Agriculture and Markets has reason to believe that the policy declared in Section 258-k of the Agriculture and Markets Law will be effectuated by joining with the United States Department of Agriculture in holding such hearing for the sole purpose of amending Official Order No. 126 regulating the handling of milk in the New York Metropolitan Milk Marketing Area.

Notice is hereby given, therefore, pursuant to the provisions of Section 258-n and to other relevant provisions of the Agriculture and Markets Law as amended, of a hearing to be held jointly and concurrently with the United States Department of Agricuture at the Hotel Robert Treat, Newark, New Jersey, beginning on June 18, 1956 at 10:00 a.m., e.d.t., and also at the following times and places beginning in each instance at 10:00 a.m., e.d.t.: July 10, Alfred E. Smith State Office Building, Albany, New York; July 12, Nelson House, Poughkeepsie, New York; July 17, Arlington Hotel, Binghamton, New York; July 19, Mark Twain Hotel, Elmira, New York; July 24, Utica Hotel, Utica, New York; July 26, Syracuse Hotel, Syracuse, New York, for the purpose of receiving evidence with respect to proposed amendments to Official Order No. 126 regulating the handling of milk in the New York Metropolitan Milk Marketing Area.

Evidence will be received at this hearing with respect to proposed amendments set forth in the notice of hearing of the United States Department of Agriculture signed by Roy W. Lennartson, Deputy Administrator, Agricultural Marketing Service on May 18, 1956 and in the supplemental notice signed by Roy W. Lennartson on May 29, 1956, which proposed amendments are hereby incorporated herein by reference.

Copies of this notice and of the notices of the United States Department of Agriculture may be obtained from the Division of Milk Control, Department of Agriculture and Markets, State Office Building, Albany, N. Y., and from the Market Administrator, 205 East 42nd Street, New York 17, N. Y.

DANIEL J. CAREY, Commissioner
of Agriculture and Markets of
the State of New York

By KENNETH F. FEE
Kenneth F. Fee, Director
Division of Milk Control

Dated at Albany, N. Y.
June 1, 1956

STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
DIVISION OF MILK CONTROL

AMENDED NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO REVISED OFFICIAL ORDER NO. 126 REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA

On June 1, 1956 the undersigned Commissioner of Agriculture and Markets gave notice of a hearing to be held jointly and concurrently with the United States Department of Agriculture, to begin on June 18, 1956, for the purpose of receiving evidence concerning proposed amend-

ments to Official Order No. 126, regulating the marketing of milk in the New York Metropolitan Milk Marketing Area, such Official Order No. 126 and Order No. 27 of the Secretary of the United States Department of Agriculture being joint and concurrent orders regulating the marketing of milk in such milk marketing area.

On February 26, 1957 the United States Department of Agriculture amended the notices heretofore issued by it concerning the joint and concurrent hearing which began on June 18, 1956 by issuing a supplemental notice to include consideration of whether, on the basis of the entire record of the hearing in such proceeding, a single marketing agreement and order, regulating the handling of milk for a marketing area consisting of all the territory in the States of New York and New Jersey for which regulation was proposed in the original notices, should be issued and would better effectuate the purposes of the Agricultural Marketing Agreement Act of 1937 as amended than would two or more separate marketing agreements or orders for such territory.

The amended notice of the United States Department of Agriculture states that evidence also will be received (1) with respect to specific terms and provisions of such a single marketing agreement and order and (2) as to whether such single marketing agreement and order if issued should be issued in the form of a new marketing agreement and order or by amending Order No. 27.

Notice is hereby given, therefore, pursuant to the provisions of Section 258-n and to other relevant provisions of the Agriculture and Markets Law as amended, that at the hearing which commenced on June 18, 1956 evidence will be received on the additional proposals set forth in the amended notice of hearing of the United States Department of Agriculture dated February 26, 1957, which additional proposals are hereby incorporated herein by reference.

Copies of this amended notice and of the amended notice of the United States Department of Agriculture may be obtained from the Division of Milk Control, Department of Agriculture and Markets, State Office Building, Albany, N. Y., and from the Market Administrator, 205 East 42nd Street, New York 17, N. Y.

DANIEL J. CAREY, Commissioner
of Agriculture and Markets of
the State of New York

By KENNETH F. FEE
Kenneth F. Fee, Director
Division of Milk Control

Dated at Albany, N. Y.
February 28, 1957